

**To:** Bohan, Suzanne[bohan.suzanne@epa.gov]  
**From:** Distler, Kenneth  
**Sent:** Thur 3/21/2013 10:43:52 PM  
**Subject:** FW: npl general conformity discussion - TJR Edits/Thoughts  
EPA General Conformity Concerns.docx  
EPA General Conformity Concerns (2)-Ken-TJR-Edits-3-21-13.docx

**From:** Russ, Timothy  
**Sent:** Thursday, March 21, 2013 12:11 PM  
**To:** Distler, Kenneth; Jackson, Scott  
**Subject:** FW: npl general conformity discussion - TJR Edits/Thoughts

Hi Ken,

I reviewed your draft general conformity comments on the NPL project and thanks much for pulling these together. I've offered a few edits as in blue in the attached Word document for your consideration.

## Ex. 5 - Deliberative Process

2. We have already had a conference call with WYDEQ on the drill rig permits issues and expressed our concerns – and WYDEQ was not entirely receptive to our position. They believed that since the drill rigs had the “voluntary” permits under Chapter 6, Section 2, they should meet the 40 CFR 93.153(d)(1) exemption. Likely, WYDEQ has already talked with BLM.

# Ex. 5 - Deliberative Process

**Scott** -please weigh in on the above and my suggested edits to Ken's comments. I would suspect that we will need to get Carl/Suzanne/Kates' approval of the comments and our possible procedure (as above) prior to sending the comments to BLM.

Thanks!

Tim

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**From:** Distler, Kenneth  
**Sent:** Wednesday, March 20, 2013 4:22 PM  
**To:** Russ, Timothy  
**Subject:** npl general conformity discussion

Tim, Take a look at my attempt at summarizing the concerns.

**Ex. 5 - Deliberative Process**

## **Ex. 5 - Deliberative Process**

Table 2: EPA Exempt Actions		
Sub Section of <u>93.153</u>	Exemption	Comments
a.	Transportation plans, programs and projects	Ex. 5 - Deliberative Process
c.1.	Total emissions below the <i>de minimis</i> levels	
c.2.	Actions which would result in no emissions increases in non-attainment or maintenance areas	
c.2.i.	Judicial and legislative proceedings	
c.2.ii.	Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operations to activities currently being conducted	
c.2.iii.	Rulemaking and policy development and issuance	
c.2.iv.	Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails and facilities.	
c.2.v.	Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel	
c.2.vi.	Administrative actions	
c.2.vii.	The routine, recurring transportation of materials	



	and personnel
c.2.viii.	Routine movement of mobile assets
c.2.ix.	Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.
c.2.x.	Future activities similar in scope to current activities
c.2.xi.	Granting licenses and leases for activities similar to ongoing activities
c.2.xii.	Planning, studies, and provision of technical assistance
c.2.xiii.	Routine operation
c.2.xiv.	Transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer
c.2.xv.	Designation of empowerment zones, enterprise communities, or viticulture areas
c.2.xvi.	Actions by any of the federal banking agencies or the Federal Reserve Banks
c.2.xvii.	Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank necessary to effect monetary or exchange rate policy
c.2.xviii.	Actions that implement a foreign affairs function of the United States
c.2.xix.	Actions associated with transfer of land,

**Ex. 5 - Deliberative Process**

	facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met
c.2.xx.	Transfer of real property, including land, facilities, and related personal property from one federal entity to another
c.2.xxi.	Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States
c.2.xxii.	Air traffic above the mixing height for the area
c.3.	Actions where the emissions are not reasonably foreseeable
c.3.i.	Initial outer continental shelf lease sales
c.3.ii.	Electric power marketing
c.4.	Actions which implement a decision to conduct or carry out a conforming program
d.1.	NSR or PSD permitted emissions
d.2.	Response to emergency events or natural disasters

Ex. 5 - Deliberative Process





		Ex. 5 - Deliberative Process
d.3.	Research or training that causes no detrimental effects on the environment	
d.4.	Action as a result of an environmental regulation	
d.5.	Emissions resulting from Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) actions; must comply with PSD/NSR program or otherwise be exempt from other environmental regulations under provisions of CERCLA	

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